IN THE UNITED STATES DISTRICT COURT FOR THE EASTERN DISTRICT OF NORTH CAROLINA WESTERN DIVISION

NO. 5:09-HC-2158-BO

DEBBIE G. CATON,)	
aka, DEBBIE GARVICK,)	
Petitioner,)	
)	
V.)	ORDER
)	
UNNAMED RESPONDENT,)	
(TIM KIMBLE),)	
Respondent.)	

Debbie G. Caton petitioned this court for a writ of habeas corpus pursuant to 28 U.S.C. § 2254. On January 6, 2011, the court entered an order granting summary judgment for respondent (D.E. # 15). Petitioner thereafter filed a notice of appeal and motion for certificate of appealability (D.E. # 18).

Liberally construing the petition, the court characterized petitioner's issues as follows: 1) false arrest; 2) unconstitutional failure to disclose favorable evidence; 3) unlawfully induced, unknowing, and involuntary plea; and 4) ineffective assistance of trial counsel. Summary judgment concluded the matter. Therefore, the court now consider the appropriateness of the certificate of appealability. See Rule 11 of the Rules Governing Section 2254 Cases ("Habeas Rules") ("the district court must issue or deny a certificate of appealability when it enters a final order adverse to the applicant.") Thus, the court reviews whether petitioner is entitled to a certificate of appealability with respect to one or more of the issues presented in his habeas petition.

A certificate of appealability may issue only upon a "substantial showing of the denial of a constitutional right." 28 U.S.C. § 2253(c)(2). Where a petitioner's constitutional claims have

been adjudicated and denied on the merits by the district court, the petitioner must demonstrate reasonable jurists could debate whether the issue should have been decided differently or show the issue is adequate to deserve encouragement to proceed further. Miller-El v. Cockrell, 537 U.S. 322, 336-38 (2003); Slack v. McDaniel, 529 U.S. 473, 483-84 (2000).

After reviewing the claims presented in the habeas petition in light of the applicable standard, the court finds reasonable jurists would not find the court's treatment of any of petitioner's claims debatable or wrong and none of the issue are adequate to deserve encouragement to proceed further. The certificate of appealability is denied (D.E. # 18).

SO ORDERED, this **___** day of April 2011.

TERRENCE W. BOYLE

UNITED STATES DISTRICT JUDGE